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APPLICATION NO.	N NO. FILING DATE		FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.			
10/052,299	01/18/2002		Mari Ann Kulseth	NIDN-10430 1192				
36335	7590	12/30/2003	30/2003 EXAMINER					
AMERSH	AM HEA	LTH	PARK, HA	PARK, HANKYEL				
IP DEPART	MENT							
101 CARNI	GIE CEN	TER	ART UNIT	PAPER NUMBER				
PRINCETO	N, NJ 08	3540-6231	1648					
				DATE MAILED: 12/30/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary			Application No.		Applicant(s)					
			10/052,299		KULSETH ET AL.					
			Examiner		Art Unit					
		Hankyel T		1648						
The Period for Re	MAILING DATE of this community	inication app	ears on the	cover sheet with the c	orrespondence a	ddress				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). Status										
1)⊠ Res∣	oonsive to communication(s) fi	iled on <u>29 Se</u>	eptember 2	<u>003</u> .						
2a)☐ This	action is FINAL.	2b)⊠ This a	action is no	n-final.						
	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.									
Disposition o	f Claims									
4a) C 5)⊠ Clair 6)⊠ Clair 7)□ Clair	· · · · · · · · · · · · · · · · · · ·									
Application P	apers									
10)⊡ The d Appli Repl	 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. 									
Priority under	35 U.S.C. §§ 119 and 120				,					
a) All 1.	bowledgment is made of a claim b) Some * c) None of: Certified copies of the priorit Certified copies of the priorit Copies of the certified copies application from the Internative attached detailed Office activated with the certified copies application from the Internative attached detailed Office activated with the certification of the foreign law ledgment is made of a claim with the certification of the foreign law ledgment is made of a claim are was included in the first second control of the foreign law ledgment is made of a claim are was included in the first second of the control of the contr	y documents y documents s of the priori ional Bureau ion for a list of for domestic led in the first anguage provi	have been the have been the certific priority urt sentence wisional ap	n received. n received in Application received in Application that have been received 17.2(a)). lied copies not received der 35 U.S.C. § 119(e) of the specification or polication has been received and 135 U.S.C. §§ 120	on No d in this National d.) (to a provisional in an Application eived. and/or 121 since	al application) Data Sheet. a specific				
Attachment(s)				r1						
2) 🔲 Notice of D	eferences Cited (PTO-892) aftsperson's Patent Drawing Review Disclosure Statement(s) (PTO-1449)		·	4) Interview Summary (5) Notice of Informal Pa 6) Other:						

Application/Control Number: 10/052,299 Page 2

Art Unit: 1648

DETAILED ACTION

1. Applicants' submission of the "Remarks" filed on September 29, 2003, is acknowledged.

2. The rejection of the claims under 35 U.S.C. 103(a) is withdrawn in view of the

Applicants' submission of a Certification of Registration which commemorates the name change

of the instant assignee from Nycomed Imaging AS to Amersham Health AS and an explanation

that the cited publication is commonly assigned with the instant application.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 10 provides for the use of microbubble-bound cells, but, since the claim does not

set forth any steps involved in the method/process, it is unclear what method/process applicant is

intending to encompass. A claim is indefinite where it merely recites a use without any active,

positive steps delimiting how this use is actually practiced.

Claim 10 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without

setting forth any steps involved in the process, results in an improper definition of a process, i.e.,

results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example Ex

parte Dunki, 153 USPQ 678 (Bd.App. 1967) and Clinical Products, Ltd. v. Brenner, 255 F.

Supp. 131, 149 USPQ 475 (D.D.C. 1966).

5. Claims 1-10 are deemed to distinguish over the prior art.

Application/Control Number: 10/052,299 Page 3

Art Unit: 1648

7.

6. Claim 10 is not allowed.

Papers relating to this application may be submitted to Group 1600 by facsimile

transmission. Papers should be faxed to Group 1600 located in Crystal Mall 1. The Fax number

for Art Unit 1648 is (703) 308-4426. All Group 1600 Fax machines will be available to receive

transmissions 24 hrs/day, 7 days/wk. Please note that the faxing of such papers must conform

with the Notice published in the Official Gazette, 1096 OG 30, (November 15, 1989).

Any inquiry concerning this communication or earlier communications from the

Examiner should be directed to Hankyel T. Park, Ph.D., whose telephone number is (703) 305-

7255. The Examiner can normally be reached on Monday, Tuesday, Thursday and Friday from

6:30 AM-4:00 PM, (EST). The Examiner can also be reached on alternate Wednesdays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's

Supervisor, James C. Housel, can be reached at (703) 308-4027.

Any inquiry of a general nature or relating to the status of this application should be

directed to the Group receptionist whose telephone number is (703) 308-0196.

Hankyel T. Park, Ph.D.

December 28, 2003

HANKYEL T. PARK, PH.D

PRIMARY EXAMINER